

SUPREME COURT OF ARIZONA

In the Matter of) Arizona Supreme Court
) No. R-20-0044
PETITION TO AMEND THE RULES OF)
PROCEDURE FOR THE JUVENILE COURT,)
AND TO AMEND CIVIL RULE 81)
)
)
) **FILED 08/25/2021**

**ORDER ADOPTING A NEW RULE 52.1
OF THE RULES OF PROCEDURE
FOR THE JUVENILE COURT**

On April 28, 2021, Justice Rebecca White Berch (ret.), on behalf of the Task Force on the Rules of Procedure for the Juvenile Court ("the Task Force"), filed a Petition to Amend the Rules of Procedure for the Juvenile Court and to Amend Civil Rule 81. Among other things, the petition asked the Court to grant expedited consideration of the Task Force's request to adopt, effective September 1, 2021, a proposed new Rule 52.1 of the Rules of Procedure for the Juvenile Court.

On May 3, 2021, this Court entered an order granting expedited consideration of the proposed new rule and opening the proposed adoption of the rule for public comment. The order went on to say that the Court would consider the proposed rule's adoption during the Court's August 2021 Rules Agenda.

Having considered the portion of the petition relating to proposed new Rule 52.1, comments from the public pertaining to it, and a reply,

IT IS ORDERED that Rule 52.1 of the Rules of Procedure for the Juvenile Court is hereby adopted in accordance with the attachment to this order, effective September 1, 2021.

DATED this 25th day of August, 2021.

_____/s/_____
ROBERT BRUTINEL
Chief Justice

TO:

Rule 28 Distribution

Rebecca White Berch

Dawn Rachelle Williams

Molly L Dunn

ATTACHMENT

NEW RULE 52.1

RULES OF PROCEDURE FOR THE JUVENILE COURT

Rule 52.1. Qualified Residential Treatment Program; Judicial Review

A. Generally. A child may be placed in a qualified residential treatment program under the conditions set forth in this rule, subject to approval and review by the court.

B. Definitions.

1. “*Qualified Residential Treatment Program*” (“QRTP”) means a program licensed as described in 42 U.S.C. § 672(k)(4) to serve children with specific treatment needs who need short term placement out of their homes and qualifies for funding under the federal Family First Prevention Services Act.

2. “*Qualified individual*” means a trained professional or licensed clinician who:

- a. is objective and qualified to conduct a QRTP assessment;
- b. is not an employee of DCS unless the requirement is waived under 42 U.S.C. § 675a(c)(1)(D); and
- c. is not connected to or affiliated with any placement setting in which children are placed by the State unless the requirement is waived under 42 U.S.C. § 675a(c)(1)(D).

3. “*QRTP assessment*” means an evaluation by a qualified individual that assesses the strengths and needs of the child using an age-appropriate, evidence-based, validated, functional assessment tool as described in 42 U.S.C. § 675a(c)(1).

C. Time to Complete the Assessment and Documentation. No later than 30 days after the start of the child’s placement in a QRTP, a qualified individual must do all of the following:

1. prepare a QRTP assessment;
2. determine whether the needs of the child can be met in kinship care with a grandparent or another member of the child’s extended family, including a person who has a significant relationship with the child, or in a foster home, and if not, which setting from among the settings specified in 42 U.S.C. § 672(k)(2) would provide the most effective and appropriate level of care for the child in the least restrictive environment and be consistent with the short- and long-term goals for the child, as specified in the permanency plan for the child; and
3. develop a list of child-specific short- and long-term mental and behavioral health goals.

D. QRTP Placement and Approval.

1. Notice and Disclosure.

a. DCS must promptly notify the parties of the child's placement no later than 24 hours, excluding weekends and holidays, after the child is placed in the QRTP. DCS may provide the notice orally or electronically, including by email. Notice to the child's parents may include the type of placement but must not include the child's new placement address or contact information.

b. DCS must file a notice with the court of the child's placement in the QRTP no later than 5 court days after the placement.

2. Procedure.

a. Upon notice by DCS that the child is placed in a QRTP, the court must set a hearing no later than 60 days after the child's placement to assess and review the need for the QRTP placement.

b. DCS must file a motion seeking approval of the child's placement in the QRTP no later than 10 court days after receipt of the QRTP assessment. However, an assessment may be completed within 30 days before the placement, and in that circumstance, DCS must file the motion no later than 10 days after the child's placement in the QRTP. If the assessment was completed more than 30 days before the placement, the assessment must be supplemented or done again, unless the parties with court approval agree otherwise. The motion must contain supporting documentation, including the QRTP assessment.

c. If no party objects to placing the child in the QRTP, the court may rule on the motion based on the supporting documentation without a hearing.

d. In deciding the motion, whether contested or uncontested, the court must consider:

(i) the QRTP assessment, any related documentation, and additional relevant evidence including testimony and the positions of the parties;

(ii) whether the child, child's family, and individuals who are identified as important to the child have had an opportunity to express their views on the placement decision;

(iii) whether placement of the child in the QRTP provides the most effective and appropriate level of care for the child in the least restrictive environment; and

(iv) whether that placement is consistent with the short- and long-term goals for the child as specified in the child's permanency plan, or if the needs of the child can be met through another available alternative placement.

3. *Findings.* A court may approve a QRTP placement only if it finds, in a signed minute entry or order, that:

a. the child's needs cannot be met by the child's parent, in kinship care with a grandparent or another member of the child's extended family, including a person who has a significant relationship with the child, or in a foster home with support services;

b. a shortage or lack of foster family homes is not the reason why the child is placed in the QRTP;

c. the child's placement in the QRTP provides the most effective and appropriate level of care in the least restrictive environment;

d. the placement is consistent with the child's permanency plan; and

e. if there is reason to know the child is an Indian child, the placement complies with the standards of Rule 50.1.

4. *Orders.* The court must enter the following orders:

a. approving or disapproving the child's placement in the QRTP;

b. if the child's placement is approved, setting a further hearing as provided in section (e);

c. if the child's placement in a QRTP is not approved, ordering DCS to investigate alternative placements and setting a further hearing if necessary; and

d. if it is in the child's best interests, providing for contact with siblings and other family members consistent with the treatment plan.

E. Continuing Review of QRTP Placement.

1. *Procedure.* If the child remains placed in a QRTP for more than 60 days, the court must review the child's placement and follow the procedures set forth in subparts D.2. and D.3. of this rule at every later review hearing under Rule 58 or permanency hearing under Rule 60, or at a QRTP placement review set by the court. DCS must disclose later reports received from the QRTP to the court and parties no later than 15 days before the QRTP placement review.

2. *Findings.* If the court approves the continuation of a QRTP placement, it must make the following findings in a signed minute entry or order, in addition to again making the findings and entering the orders required by subparts D.3. and D.4.:

a. the ongoing assessment of the child's strengths and needs continues to support the determination that the child's needs cannot be met through placement with a parent, in kinship care, relative care, or in a foster home;

b. the specific treatment or services that the child needs are being provided to the child;

c. the length of time the child is expected to need additional treatment; and

d. the efforts made to prepare the child for transition to a parent, kinship care including a person who has a significant relationship with the child, legal guardian, or an adoptive home or foster family home.

F. Discharge. DCS must file a motion for change of physical custody before discharge from the QRTP, unless there are exigent circumstances. Under those circumstances, the motion must be filed upon discharge or as soon as practicable.